

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Heather Rooks,

Plaintiff,

v.

Peoria Unified School District,

Defendant.

No. CV-23-02028-PHX-MTL

**SCHEDULING ORDER**

Pursuant to the Joint Case Management Report (Doc. 21),

The Court enters the following Scheduling Order to govern the litigation in this case:

1. Deadline for Joinder, Amending Pleadings, and Filing Supplemental Pleadings.

The deadline for joining parties, filing a motion to amend the pleadings, and filing supplemental pleadings is **February 16, 2024**.

2. Discovery Limitations.

- a. Depositions shall be limited as provided by Rules 30 and 31 of the Federal Rules of Civil Procedure. Notwithstanding any provisions of the Federal Rules of Civil Procedure, non-party witnesses shall not be permitted to attend (either physically, electronically, or otherwise) the deposition of any other witness in this case without an order of this Court.

- b. Each side may propound up to 25 interrogatories, including subparts, 25 requests for production of documents, including subparts, and 25 requests for

1 admissions, including subparts. The Federal Rules of Civil Procedure do not permit  
2 “general” or “global” objections. The Court will therefore neither consider nor rule on  
3 objections that are not specific to the individual interrogatory or request propounded.

4 c. If desired, a proposed Joint Stipulated Protective Order must be  
5 lodged with the Court no later than **February 16, 2024**.

6 3. Fact Discovery.

7 The deadline for the completion of fact discovery, including discovery by subpoena,  
8 shall be **February 29, 2024**. To ensure compliance with this deadline, the following rules  
9 shall apply:

10 a. Depositions: All depositions shall be scheduled to start at least five  
11 business days before the discovery deadline.

12 b. Written Discovery: All interrogatories, requests for production of  
13 documents, and requests for admissions shall be served at least 45 days before the fact  
14 discovery deadline.

15 c. Notwithstanding Local Rule of Civil Procedure 7.3, the parties may  
16 mutually agree in writing, without Court approval, to extend the time provided for  
17 discovery responses in Rules 33, 34, and 36 of the Federal Rules of Civil Procedure. Such  
18 agreed-upon extensions, however, shall not alter or extend the deadlines set forth in this  
19 Order.  
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21 4. Discovery Disputes.

22 a. Except as otherwise specified in this Paragraph 5, motions to compel  
23 discovery shall be governed by Rule 37 of the Federal Rules of Civil Procedure and Local  
24 Rule of Civil Procedure 37.1. In the course of written discovery, if a discovery dispute  
25 arises and cannot be resolved despite sincere efforts to resolve the matter through personal  
26 consultation (in person or by telephone), the parties shall jointly file (1) a joint motion  
27 containing a written summary of the dispute, not to exceed three pages of argument  
28 (excluding exhibits, which should include the discovery requests and responses/objections

1 at issue and may include attorney correspondence), with explanation of the position taken  
2 by each party, and (2) a joint written certification that counsel or the parties have attempted  
3 to resolve the matter through personal consultation and sincere efforts as required by Local  
4 Rule of Civil Procedure 7.2(j). If the opposing party has refused to personally consult, the  
5 party seeking relief shall describe the efforts made to obtain personal consultation. Upon  
6 review of the joint motion, the Court may set a telephonic conference or in-person  
7 proceeding, order supplemental briefing, or decide the dispute by relying on the joint  
8 motion.

9           b. If a discovery dispute arises in the course of a deposition and requires  
10 an immediate ruling of the Court, the parties shall jointly telephone the Court to request a  
11 telephone conference regarding the dispute.

12           c. Absent extraordinary circumstances, the Court will not entertain fact  
13 discovery disputes after the deadline for completion of fact discovery, and will not entertain  
14 expert discovery disputes after the deadline for completion of expert discovery. Delay in  
15 presenting discovery disputes for resolution is not a basis for extending discovery  
16 deadlines.

17           d. The parties are strongly encouraged to resolve discovery disputes  
18 mutually and without expending judicial resources. To that end, and under the appropriate  
19 circumstances, the Court will give serious consideration to the payment of expenses as  
20 provided for in Rule 37(a)(5) of the Federal Rules of Civil Procedure.

21           5. Dispositive Motions.

22           a. The parties agree to the following case-specific deadlines regarding  
23 dispositive motions:

24           i. Plaintiff's deadline to move for summary judgment: **March**  
25 **14, 2024.**

26           ii. Defendant's deadline to file combined response and,  
27 optionally, cross-motion for summary judgment: **April 11, 2024.**  
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1                   iii. Plaintiff's deadline to file combined reply and, if needed,  
2 response to motion for summary judgment: **May 2, 2024.**

3                   iv. Defendant's deadline to file a reply in support of cross-motion  
4 for summary judgment (if applicable): **May 17, 2024.**

5                   b. No party or parties represented by at least one of the same counsel  
6 shall file more than one motion for summary judgment under Rule 56 of the Federal Rules  
7 of Civil Procedure without leave of the Court.

8                   c. Local Rule of Civil Procedure 56.1 is suspended, except for  
9 subsection (d). The Court will decide summary judgment motions under Federal Rule of  
10 Civil Procedure 56 only. The parties may not file separate statements of facts or separate  
11 controverting statements of facts, but instead must include all facts in the motion, response,  
12 or reply itself. All evidence to support a motion or response must be attached to the motion  
13 or response. The evidence may include only relevant excerpts rather than full documents.  
14 No new evidence may be submitted with a reply. A reply may cite only evidence attached  
15 to the motion or response. No party shall presume that the Court will scour the record for  
16 facts or theories that might support either party's case. *See Claar v. Burlington N. R.R. Co.*,  
17 29 F.3d 499, 504 (9th Cir. 1994). The Court will rely solely upon the attached evidence to  
18 verify facts asserted in the motion, response, or reply. Each citation to evidence to support  
19 a fact must include a pin citation to at least one page that proves that fact. Because no  
20 separate controverting statement of facts will be permitted, the responding party must  
21 carefully address all material facts raised in the motion. Likewise, the reply must carefully  
22 address all material facts raised in the response. Any fact that is not addressed may be  
23 deemed by the Court to be uncontested.

24                   d. Organizationally, immediately following the document containing the  
25 motion and supporting memorandum, the moving party shall attach a numerical table of  
26 contents. Each piece of evidence listed in the table of contents shall be attached to the table  
27 of contents in numerical order. Immediately following the document containing the  
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1 response and supporting memorandum, the responding party shall attach an alphabetical  
2 table of contents. Each piece of evidence listed in the table of contents shall be attached to  
3 the table of contents in alphabetical order. By way of example, citations to exhibits attached  
4 to the motion would be “(Ex. 1 at 7)” and citations to exhibits attached to the response  
5 would be “(Ex. D at 3).”

6 e. A party desiring oral argument shall place the words “Oral Argument  
7 Requested” immediately below the title of the motion pursuant to Local Rule of Civil  
8 Procedure 7.2(f). Where oral argument does not aid the Court’s decision, the Court may  
9 decline the request and decide the motion without holding oral argument. If the request is  
10 granted, the Court will issue a minute entry informing the parties of the argument date and  
11 time. The minute entry may specify particular issues that the Court deems worthy of  
12 attention.

13 6. Motions for Attorneys’ Fees.

14 All motions for an award of attorneys’ fees shall be accompanied by an electronic  
15 Microsoft Excel spreadsheet, to be emailed to the Court and opposing counsel, containing  
16 an itemized statement of legal services with all information required by Local Rule  
17 54.2(e)(1). This spreadsheet shall be organized with rows and columns and shall  
18 automatically total the amount of fees requested to enable the Court to efficiently review  
19 and recompute, if needed, the total amount of any award after disallowing any individual  
20 billing entries. This spreadsheet does not relieve the moving party of its burden under Local  
21 Rule 54.2(d) to attach all necessary supporting documentation to its motion. A party  
22 opposing a motion for attorneys’ fees shall email to the Court and opposing counsel a copy  
23 of the moving party’s spreadsheet, adding any objections to each contested billing entry  
24 (next to each row, in an additional column) to enable the Court to efficiently review the  
25 objections. This spreadsheet does not relieve the non-moving party of the requirements of  
26 Local Rule 54.2(f) concerning its responsive memorandum.

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1           7.     Good Faith Settlement Talks.

2           All parties and their counsel shall meet in person and engage in good faith settlement  
3 talks no later than **February 29, 2024**. Upon completion of such settlement talks, and in  
4 no event later than five working days after the deadline set forth in the preceding sentence,  
5 the parties shall file with the Court a joint report on settlement talks executed by or on  
6 behalf of all counsel. The report shall inform the Court that good faith settlement talks have  
7 been held and shall report on the outcome of such talks. The parties shall indicate whether  
8 assistance from the Court is needed in further settlement efforts. The Court will set a  
9 settlement conference before a Magistrate Judge upon request of all parties. The parties  
10 shall promptly notify the Court if settlement is reached.

11           8.     Joint Mediation Plan.

12           Counsel shall meet and confer and submit a joint mediation plan that identifies: (1)  
13 whether the parties wish to pursue private mediation or request a settlement conference  
14 before a Magistrate Judge; (2) when they plan to schedule their mediation or settlement  
15 conference to occur; and (3) any other information the parties believe that Court should be  
16 made aware. The joint mediation plan shall be filed with the Court no later than **February**  
17 **29, 2024**. If the parties elect private mediation, but cannot agree on a mediator, each party  
18 shall identify no more than three mediators in the joint report and attach helpful background  
19 information. The Court will then select from the names submitted.

20           9.     Briefing Requirements.

21           a.     All memoranda filed with the Court shall comply with Local Rule of  
22 Civil Procedure 7.1(b) requiring text no smaller than 13 point font in text and footnotes for  
23 proportional font sizes, and no smaller than 10 pitch in text and footnotes for fixed-pitch  
24 type sizes.

25           b.     Citations in support of any assertion in the text shall be included in  
26 the text, not in footnotes.

27           c.     A party moving for an extension of time, enlargement of page  
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1 limitations, leave to amend, or leave to file a document under seal shall indicate in the  
2 motion whether the non-movant opposes the request and intends to file a written response.  
3 If the non-movant has refused to provide a position on the request, the moving party shall  
4 describe the efforts made to consult.

5 10. Pre-motion Conference.

6 If the parties or the Court believe it may be assistive, the Court may hold a  
7 conference with the parties before motions for summary judgment are filed. The purpose  
8 of the conference would be to narrow issues and focus the briefing. In those cases, the  
9 parties shall exchange two-page letters describing any anticipated motions for summary  
10 judgment and responses, identifying the issues and claims on which summary judgment  
11 will be sought, and the basis for the motions and response. The deadline for the parties to  
12 file these letters with the Court shall be 60 days prior to the dispositive motion deadline.  
13 Once filed, the parties shall call the Court the same day to schedule a time for a pre-motion  
14 Conference.

15 11. Deadline for Notice of Readiness for Final Pretrial Conference.

16 The Plaintiff(s) shall notify the Court that the parties are ready for scheduling a Final  
17 Pretrial Conference pursuant to Rule 16(e) of the Federal Rules of Civil Procedure. The  
18 Plaintiff(s) shall file and serve this notice within seven days after the dispositive motion  
19 deadline if no dispositive motions are pending on that date. If dispositive motions are  
20 pending, Plaintiff(s) shall file and serve such notice within seven days after the resolution  
21 of the dispositive motions. The Court will then issue an Order Setting Final Pretrial  
22 Conference.

23 12. The Deadlines Are Real.

24 The Court will, absent a showing of good cause, enforce the deadlines set forth in  
25 this Order, and the parties should plan their litigation activities accordingly. If the parties  
26 wish to file an extension request, the parties should include in their motion or stipulation  
27 (1) what they have done to date; (2) why the extension is necessary; and (3) any other  
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1 information that may be helpful for the Court. Failure to meet any of the deadlines in this  
2 Order or in the Federal or Local Rules of Civil Procedure without substantial justification  
3 may result in sanctions, including dismissal of the action or entry of default.

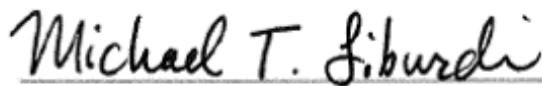
4 13. Requirement for Paper Courtesy Copies.

5 A paper courtesy copy of dispositive motions and any responses or replies thereto  
6 shall be either postmarked and mailed to the Judge or hand-delivered *to the Judge's*  
7 *mailbox* located in the Clerk's office by the next business day after the electronic filing.  
8 Please do not attempt to deliver documents to the Judge's chambers. A copy of the face  
9 page of the Notice of Electronic Filing shall be appended to the last page of the courtesy  
10 copy. Courtesy copies of documents too large for stapling must be bound with a metal  
11 prong fastener at the top center of the document or submitted in three-ring binders.

12 14. Court Hearings Are In Person.

13 Unless otherwise indicated by Court order, counsel are expected to attend court  
14 hearings in person. The Court may grant a motion for leave to appear telephonically. A  
15 motion for leave to appear telephonically must be filed at least 7 days before a hearing and  
16 indicate the position of all other parties. Counsel are advised that convenience and cost  
17 savings typically are not considered good cause for granting leave.

18 Dated this 6th day of February, 2024.

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21 Michael T. Liburdi  
22 United States District Judge  
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